

Government of the District of Columbia
ZONING COMMISSION



ZONING COMMISSION ORDER NO. 643
CASE NO. 89-2M/84-18F
(PUD MODIFICATION - BROOKINGS)
NOVEMBER 13, 1989

Pursuant to notice, a public hearing of the Zoning Commission for District of Columbia was held on June 19 and 22, and July 20, 1989. At those hearing sessions, the Zoning Commission considered the application of the Brookings Institution for a modification to a previously approved Planned Unit Development (PUD) and map amendment, pursuant to Section 2400 of the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning. The public hearing was conducted in accordance with provisions of 11 DCMR 3022.

FINDINGS OF FACT

1. The application, which was filed January 13, 1989, request modifications to a previously approved Planned Unit Development (PUD) and change of zoning from R-5-D to SP-2 for Lots 113 and 863 in Square 157 located in the 1700 blocks of P Street and Massachusetts Avenue, N.W. By Zoning Commission Order No. 457 dated May 13, 1985, the Zoning Commission approved the construction of a mixed-use office/residential project on the 62,626 square foot PUD site.
2. The approved mixed-use project includes an eight-story office component with 89,323 square feet of floor area for professional and non-profit SP-2 office use, and a residential component including three three-story townhouses and an eight-story apartment building containing a total of 76,615 square feet of floor area for residential use.
3. Zoning Commission Order No. 533 granted an extension of the validity of Z.C. Order 457 for two years, until June 7, 1989. On June 12, 1989, the Zoning Commission, approved an additional two year extension of Z.C. Order No. 457-A.
4. The R-5-D District permits matter-of-right general residential uses of high density development, including single-family dwellings, flats, and apartments to a

maximum height of ninety feet, a maximum floor area ratio (FAR) of 6.0 for apartment houses and 5.0 for other structures and a maximum lot occupancy of seventy-five percent.

5. The SP-2 District permits matter-of-right medium density development including all kinds of residential uses, with limited offices for non-profit organizations, trade associations and professionals permitted as a special exception requiring approval of the BZA to a maximum height of sixty-five feet, a maximum floor area ratio (FAR) of 6.0 for residential and 3.5 for other permitted uses, and a maximum lot occupancy of eight percent for residential uses.
6. Under the PUD process of the Zoning Regulations, the Zoning Commission has the authority to impose development conditions, guidelines, and standards which may exceed or be lesser than the matter-of-right standards identified above. The Commission may also approve uses that are permitted as a special exception by the BZA.
7. The District of Columbia generalized Land Use Map Element of the Comprehensive Plan for the National Capital includes the PUD site in an area designated for high density residential uses.
8. The subject application proposes to modify the approved residential building which is located on the south side of the 1700 block of P Street, N.W., by reducing the floor-to-floor height for each story of the building and by adding one additional story to the building basis. He testified that the resulting P Street elevation would have a more classical image which would be more compatible with existing development on P Street. To further enhance the residential character of the building and its relationship to neighboring structures, the architect testified that Victorian gables had been added and the height of the townhouse units along P Street had been increased. The Victorian gables are repeated at the top of the apartment building to unify the elevation and produce a more cohesive project. The P Street elevation of the office building was refined to give the building a more residential appearance. The mansard roof has been eliminated, making the elevation more recessive and less dominating.
9. The proposed net increase in height is 6 feet 8 inches increasing the approved building height from 75 feet to 81 feet 8 inches. The application also proposes to modify the footprint of the apartment building by adding approximately 5,200 square feet of additional

space. Together, the modifications to the approved apartment building will increase the size of the building by approximately 13,800 square feet. Additional modifications include design refinements in the P Street project facade to provide a more classical design and refinements in the courtyard plan and elevations.

10. The applicant, through its architect, testified that the proposed modifications in the P Street facade of the residential building were necessary to correlate individual floor plans to the residential building elevations on a unit-by-unit basis. He testified that the resulting P Street elevation would have a more classical image which would be more compatible with existing development on P Street. To further enhance the residential character of the building and its relationship to neighboring structures, the architect testified that Victorian gables and had been added and the height of the townhouse units along P Street had been increased. The Victorian gables are repeated at the top of the apartment building to unify the elevation and produce a more cohesive project. The P Street elevation of the office building was refined to give the building a more residential appearance. The mansard roof has been eliminated, making the elevation more recessive and less dominating.
11. The project architect further testified that the office component will be unchanged in height and floor area and the elevations have been refined. The area of the courtyard, other elements of the residential component and number of parking spaces provided would also remain essentially unchanged.
12. The applicant, through its urban design consultant, testified that the proposed design modifications were not only architecturally compatible with the neighborhood, but even more appropriate aesthetically than the originally approved design. He testified that the height, massing and bulk of the buildings were notably less than allowed under matter-of-right zoning, and visually in scale with adjacent and nearby buildings and with the streetscape.
13. A representative for the contract purchaser of the PUD site testified that the modifications are necessary to improve the marketability and economic feasibility of the PUD project. The proposed additional floor will enable the developer to provide substantially larger apartment units and produce a more marketable mix of units. Instead of predominantly small, one bedroom and efficiency apartments, the modification plans include

27 larger one-bedroom units, 33 one-bedroom with den units, and 21 two-bedroom units.

14. The developer testified that the proposed increase in the size of the apartment building would not result in a corresponding increase in the approved maximum number of units to be included in the building. The total number of units with the proposed modifications would be 81, which is at the upper end of the previously approved range of 72-82 units.
15. The applicant, through its marketing consultant, testified that the proposed design modifications and unit mix would improve the marketability of the residential condominium units. He also testified that the larger units being proposed would encourage purchases of the units by longer-term owner/occupants as opposed to investor/purchasers.
16. The District of Columbia Office of Planning, (OP) by memorandum dated June 8, 1989 and by testimony presented at the public hearing, recommended approval of the application. OP stated the following:

"The townhouses were increased in height and were given Victorian gables. The additional height of the townhouses should have no adverse impact and could help in partially screening the office building behind. The height of the apartment building has also been increased. At the Avondale, which has a height of 63 feet, the approved apartment building height of 69 feet has now been increased to 76 feet. However, the seven foot increase in the height differential appears to be generally mitigated by the fact that the apartment building still steps down gradually from its highest point toward the Avondale and that the 13 foot-8 inch overall height of the apartment building is substantially below the 90 foot matter-of-right limit.

Along P Street, the additional apartment building height could potentially have an adverse impact on the townhouses on the north side of the street. Yet, the addition of six feet-eight inches on top of 75 feet of height would be barely discernable, and the total height of 81 feet-8 inches would be much less than that of the approved companion office building at 88.9 feet. Finally, the Historic Preservation Review Board (HPRB) approved the project's modified height, noting its compatibility with existing P Street development.

Arguably, the design changes which are part of the proposed PUD modification will have a greater impact on the neighborhood than will the height changes. Significant refinements have been made to the facades

of both buildings, reducing their scale. The apparent height of the office building has been reduced, and the residential character of the apartment building has been greatly enhanced."

17. The Historic Preservation Review Board (HPRB), on May 17, 1989, approved the proposed design modifications. At that time, no written decision or comment was issued by the HPRB.
18. The District of Columbia Department of Public Works (DPW), by memorandum dated June 7, 1989, reported that in all relevant aspects, the proposal would not materially affect the transportation elements of the original PUD. DPW had no objections to the proposed modifications.
19. The District of Columbia Fire Department, (DCFD) by memorandum dated May 5, 1989, reported that the DCFD had no objections to the proposal, provided the applicant complies with the fire protection and life safety provisions of the D.C. construction codes.
20. The District of Columbia Metropolitan Police Department (MPD), by letter dated June 1, 1989, reported that the MPD was satisfied in 1985 that the earlier PUD would not impose an adverse impact on police services. The MPD also believes the instant application will not have any additional impact on police services. MPD has no objections to the proposed modifications.
21. The District of Columbia Department of Recreation (DOR), by memorandum dated May 26, 1989, reported that provisions in the passive recreation area of appear to be adequate. DOR recommended that climb-sculpture or similar outdoor furniture and fences be provided for small children and parents.
22. The District of Columbia Office of Business and Economic Development (OBED), by memorandum dated June 20, 1989, supported the application because of the following:
 - a. Consistency with the Comprehensive Plan;
 - b. Consistency with SP-2 and R-5-D Districts;
 - c. Negligible impact from height increase;
 - d. Trend to larger units; and
 - e. Benefit to the city of additional residential units.
23. The District of Columbia Department of Housing and Community Development (DHCD), by memorandum dated June 19, 1989, reported that it has no objection to the proposal. DHCD recommended that the applicant reserve

a number of residential units for moderate-income residents.

24. Advisory Neighborhood Commission 2B, by letter dated June 2, 1989 and by testimony presented at the public hearing, opposes the application for the following reasons:
- a. Approval of the modifications would upset the balance achieved in the previous PUD approval, and would destroy the "long-to-achieve" compromise between the parties;
 - b. The proposed modifications will increase the size of the residential building to almost the size of a matter-of-right building therefore removing the justification for the previously approved rezoning as well as violating the spirit of Z.C. Order No. 457;
 - c. With the proposed modifications, the proposed residential building will be the largest on P Street overwhelming all adjacent buildings;
 - d. The proposed modifications will have an adverse impact on the air, light and shadow on P Street as compared with the 1985 approved project;
 - e. The need for the proposed modifications based on economic feasibility are neither substantiated nor persuasive; and
 - f. The increased size of the approved units will have no benefit for the neighborhood;
 - g. The applicant is providing no amenities with this application;
 - h. The applicant violated the spirit of ANC 2B's support of the applicant's request to extend the validity of Z.C. Order No. 457. In lieu of proceeding with construction pursuant to A.C. Order No. 457, the applicant used that time to prepare the instant modification application.
25. The Avondale Cooperative, a party in the proceedings, by letters dated June 8 and June 19, 1989 testimony presented at the public hearing supported the proposed modification because of the following:
- a. The proposed modifications do not significantly alter the intent and concept of the approved PUD plan;

- b. The critical need to move forward with the project which has a compatible, high quality design;
 - c. The project will enhance the quality and stability of the neighborhood; and
 - d. The proposed height increase will not significantly change the mass of the building and the proposed design refinements are very pleasing and should benefit the neighborhood.
26. Paul and Mildred Ann Riley, a party in the proceedings, testified in opposition to the proposed modifications contending that the modifications would be incompatible with the residential character and scale of development on P Street and would essentially allow matter-of-right development on the residential component.
27. The Citizens Coalition Against the Proposed Brookings Office Building, a party in the proceedings, by letter received on June 2, 1989 and by testimony presented at the public hearing, opposed the application. In addition to the opposing concerns already mentioned, the Coalition expressed the following:
- a. The proposed density of the project is too high;
 - b. Previous demolitions in the block by The Brookings Institution and the previously approved office component adversely impact the neighborhood;
 - c. The architecture of the project is not exemplary; and
 - d. The existing parking lot is an attraction for litterers and loiterers.
28. Two persons testified at the public hearing and letters from two persons were received in support of the application for the following reasons:
- a. Compatibility of the proposed modifications with existing development on P Street; and
 - b. Positive impact that the development of the project would have on the neighborhood.
29. The Zoning Commission concurs with the position and recommendation of the applicant, OP, DPW, DCFD, MPD, OBED, DHCD, and others, and finds that the proposed modifications to Z.C. Order No. 457, as extended by Z.C. Order No. 533, are appropriate.

30. As the concern of ANC 2B and others regarding upsetting a balance between opposing parties that was achieved in the previous PUD approval, the Commission is mindful of its responsibility to adjudicate all applications that are properly filed before it. The Commission finds that its actions are based on a case-by-case assessment of the record and believes that from time-to-time circumstances change that may affect earlier decisions or agreements.
31. As to the concerns of ANC 2B and others regarding compatibility with the neighborhood, the increased size of the residential component, and its overwhelming scale in comparison to neighboring properties; the Commission does not concur. The Commission finds that the increase in size is minimal and the FAR is less than the maximum FAR permitted under the R-5-D or SP-2 zoning. The Commission also finds that neighborhood compatibility is more evident with the proposed design than was with the previously approved design. The Commission further finds that the scale of the proposal is softened by the architectural treatment of facade projections and recesses, cornice lines, parapets; door and window bays, and the use of exterior materials.
32. As to the concerns of ANC-2B and others regarding the adverse impact on air, light and shadow on P Street, the Commission does not concur, but notes that matter-of-right development would create a worse scenario.
33. As to the concerns of ANC-2B and others regarding the economic feasibility of the proposal, the Commission is persuaded that the residential market is shifting to larger apartment units, as opposed to smaller units. The Commission finds that larger units, particularly two or more bedrooms, tend to attract residents with families, as opposed to the lesser appeal that one bedroom or efficiency units would have to that population.
34. As to the concern of ANC-2B and others regarding the lack of amenities, the Commission does not concur, but finds that the above-mentioned rationales are for various amenities, particularly, the ability to attract families to a residential development, as opposed to attracting single persons.
35. As to the concern of ANC-2B and others regarding the applicant violating the spirit of ANC-2B's support for a request of the applicant to extend the validity of Z.C. Order No. 457, the Commission finds that this matter should more appropriately be addressed by someone other than the Commission.

36. As to the concern regarding the PUD proposal being too high, the Commission does not concur and finds that the proposal is less than the height for matter-of-right development.
37. As to the concern regarding the project architecture not being exemplary, the Commission does not concur.
38. As to the concern regarding the applicant having previously and adversely affecting the neighborhood by destroying residential row-structures, the Commission finds that the instant application is an opportunity for the applicant to replace housing units to the housing stock of the neighborhood and city.
39. As to the concern regarding littering and loitering on the parking lot, the Commission finds that the development of the parking lot site will adequately address that concern.
40. The Commission finds that the applicant has met the intent and purpose of the Zoning Regulations and further finds that the proposal is suitable for the site, and that the design, height, density, and scale are compatible with the subject neighborhood.
41. The proposed action of the Zoning Commission was referred to the National Capital Planning Commission (NCPC), under the terms of the District of Columbia Self-Governmental and Government Reorganization Act. The NCPC, report dated October 5, 1989, indicated that the proposed action of the Zoning Commission would not adversely affect the Federal establishment or other Federal interests in the National Capital or be inconsistent with the Comprehensive Plan for the National Capital.

CONCLUSIONS OF LAW

1. The Planned Unit Development process is an appropriate means of controlling development of the subject site, because control of the use and site plan is essential to ensure compatibility with the neighborhood.
2. The development of this PUD carries out the purposes of Chapter 24 to encourage the development of well-planned residential, commercial and mixed-use developments which will offer a variety of building types with more attractive and efficient overall plan and design not achievable under matter-of-right development.

3. The development of this PUD is compatible with city-wide goals, plans and programs, and is sensitive to environmental protection and energy conservation.
4. Approval of this application is not inconsistent with the Comprehensive Plan for the National Capital.
5. The approval of this application is consistent with the purposes of the Zoning Act.
6. The proposed application can be approved with conditions which ensure that the development will not have an adverse affect on the surrounding community, but will enhance the neighborhood and ensure neighborhood stability.
7. The approval of this application will promote orderly development in conformity with the entirety of the District of Columbia zone plan, as embodied in the Zoning Regulations and Map of the District of Columbia.
8. The Zoning Commission has accorded to the Advisory Neighborhood Commission 2B the "great weight" consideration to which it is entitled.
9. This application is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission for the District of Columbia hereby orders APPROVAL of the application for modification to the previously approved PUD for Zoning Commission Orders No. 457 and 533 for lots 113 and 863 in Square 157 located in the 1700 block of P Street, N.W.. The approval of this PUD is subject to the following guidelines, conditions and standards:

1. The Planned Unit Development modifications approved herein shall be in accordance with the plans prepared by Keyes, Condon & Florance, Architects, identified in the record as Exhibits No. 23(B) and 23(C), and by a photograph of an architectural rendering identified as Exhibit No. 65 of the record.
2. The floor area ratio (FAR) for the entire project shall not exceed 5.1. The non-residential FAR shall not exceed 3.8.
3. The height of the new residential buildings shall not exceed 81 feet, 8 inches at the main roof, 88 feet at

the top of the gable peak and 93 feet, 6 inches at the top of the penthouse.

4. No building permit shall be issued for the site until the applicant has recorded a covenant in the land records of the District of Columbia between the owner and the District of Columbia satisfactory to the Office of Corporation Counsel and the Zoning Regulations Division of the Department of Consumer and Regulatory Affairs (DCRA). The covenant shall bind the owner and all successors in title to construct on and use of the property in accordance with this Order and amendments thereto of the Zoning Commission.
5. The Zoning Secretariat shall not release the record of this case to the Zoning Regulations Divisions of the DCRA until the applicant has filed a certified copy of said covenant with the records of the Zoning Commission.
6. The PUD approved by the Zoning Commission shall be valid for a period of two years from the effective date of this Order. Within such time, application must be filed for a building permit as specified in Subsections 2407.1 and 2406.8, DCMR Title 11. Construction shall start within three years of the effective date of this order.
7. Pursuant to D.C. Code Sec. 1-2531 (1987), Section 267 of D.C. Law 2-38, the Human Rights Act of 1977, the applicant is required to comply fully with the provisions of D.C. Law 2038, as amended, codified as D.C. Code, Title 1, Chapter 25, (1987), and this Order is conditioned upon full compliance with those provisions. Nothing in this Order shall be understood to require the Zoning Regulations Division/DCRA to approve permits, if the applicant fails to comply with any provisions of D.C. Law 2-38, as amended.

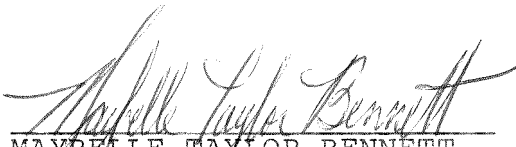
Vote of the Zoning Commission taken at the special public meeting of July 31, 1989: 3-2 (George M. White, Maybelle Taylor Bennett and Lloyd D. Smith, to approve with conditions - John G. Parsons and Lindsley Williams, opposed).


The guidelines, conditions and standards were approved at the regular monthly public meeting on September 11, 1989.

This order was adopted by the Zoning Commission at its regular monthly public meeting on November 13, 1989 by a vote of 3-1 (Lloyd D. Smith and Maybelle Taylor Bennett, to adopt as amended and George M. White, to adopt by absentee vote - John G. Parsons, opposed and Tersh Boasberg, not voting not having participated in the case).

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In accordance with the provisions of 11 DCMR 3028, this order is final and effective upon publication in the D.C. Register, that is on DEC 15 1989.


MAYBELLE TAYLOR BENNETT
Chairperson
Zoning Commission


EDWARD L. CURRY
Executive Director
Zoning Secretariat

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